

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

2017 APR -4 AM 11:32

CLEAR IN DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: 8  
DEPUTY

**NICHOLAS PALOMO,**  
**Plaintiff,**

**-vs-**

**Case No. A-16-CA-628-SS**

**PORTFOLIO RECOVERY ASSOCIATES, LLC,**  
**Defendant.**

---

**ORDER**

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically "Plaintiff's Motion for Summary Judgment" [#19] consisting of 148 pages; Defendant's Unopposed Motion to File Response to Parties' Motion for Summary Judgment Exhibits to F, G, H, I, and J Under Seal [#24] consisting of 42 pages; and Defendant's Response to Plaintiff's Motion for Summary Judgment [#23] consisting of 95 pages, and thereafter, enters the following:

IT IS ORDERED that the Plaintiff's Motion for Summary Judgment is DENIED.

Notwithstanding the volume of Plaintiff's Motion for Summary Judgment as well as the specific objections (primarily technical) of the defendant to the motion and supporting documents, the Court finds there are technical objections which can and will be sustained but more importantly that the alleged letter relied on by the plaintiff Palomo in this case and its further consequences establishes a factual issue that should be determined by the fact finder.

The undersigned notes that Palomo has declined apparently to participate with discovery according to the defendant's response. The undersigned does not understand a lawyer who intentionally does not respond to discovery timely and with objections or waiving them. In fact, after

✓

wasting the Court's time of reading these 250 pages, it would appear there is more value in the penalties to respond correctly to appropriate discovery than to the merits of this case. The Western District of Texas, Austin Division, has one of the most voluminous and complex civil dockets in the country as illustrated by the trial date entered in this case. This is a minor case featuring only the aspiration of attorney's fees—which is unlikely—filed by counsel who has multiple similar cases for a party that has no damages and remembers his debt, if any, that it was higher than stated in the letter comprised by counsel.

The parties are to continue to follow the scheduling order entered by the Court in this case.

SIGNED this the 3<sup>rd</sup> day of April 2017.

  
UNITED STATES DISTRICT JUDGE